THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.23984 of 2006

Date: 17th September, 2007

Between :-

V. Malyadri .. Petitioner

And

The Chief Rationing Officer/District Collector,
Krishna District at Machilipatnam
And 2 others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.23984 of 2006

ORDER:-

This Court issued *rule nisi* on 18-11-2006.

2. The Writ Petition is filed for a Writ of Mandamus declaring the proceedings in order No.A7/2223/2006, dated 8-11-2006, passed by the 3rd respondent as arbitrary, illegal and unconstitutional and violative of and contrary to Circular No.PDSII(3)/2847/2005, dated 19-3-2005 issued by the 1st respondent by directing the respondents 2 and 3 to convert the petitioner as Fair Price Shop Dealer in accordance with the Circular PDS 11 (3)/2847/05, dt.19-3-2005, and to pass such other suitable orders.

3. It is stated that the rejection of conversion of the petitioner's kerosene retail outlet as F.P.Shop in accordance with the circular of the Commissioner of Civil Supplies issued in proceedings No.PDSII(3)/2847/2005, dt.19-3-2005 by the 3rd respondent – R.D.O. as per his

proceedings in Order No.A7/2223/2006, dt.8-11-2006 is challenged in this Writ Petition. It is also further stated that the petitioner studied and passed 6th Class and belonged to the Backward Community and fully eligible for conversion of his Kerosene Retail Outlet as F.P.Shop in pursuance of the policy of the State enunciated in the Circular, dt.19-3-2005, issued by the 1st respondent. It is also stated that the State Government has taken a policy decision to convert all the Kerosene Hawkers as F.P.Shop Dealers in a phased manner and the underlying idea in taking such policy decision is the economic non vailability of retail kerosene outlets and to make all the essential commodities available under the same roof and throughout the month. It is also further stated that since the petitioner also a Kerosene Hawker who has been distributing Kerosene to the cardholders for the past 18 years without any remark whatsoever from any corner and suffer of heavily to maintain the family with the meager income deriving from the commission on selling lesser

quota of Kerosene i.e., non viability, the petitioner made an application for conversion of his retail outlet as F.P. Shop, but the 3rd respondent – R.D.O., in a mechanical manner and without application of mind has rejected on the ground that the petitioner had not passed 10th Class and not produced age proof, which is arbitrary, illegal and contrary to the policy decision of the State enunciated in Circular dt.19-3-2005. It is also further stated that the minimum requirements for the selection of Fair Price Shop Dealers as stated in G.O.Ms.No.53, dated 6-10-2003 is not applicable to the case of the petitioner for conversion as F.P. Shop is arbitrary and contrary to the State policy and that petitioner is entitled for conversion as F.P. Shop Dealer in terms of the said Circular. It is also further stated that the said G.O.Ms.No.53, dt.6-10-2003 and the said eligibilities for selection of Fair Price Shop Dealers stated therein are only applicable to the fresh candidates seeking for selection of Fair Price Shop Dealers and applying the same to the already existing Hawkers is unreasonable and violative of the State policy and policy

of the Government to replace the Kerosene Hawkers by converting them to be Fair Price Shop Dealers will never be achieved. It is also further stated that there are vacancies of Fair Price Shop Dealers is utterly false as the respondents are going to fill-up by notifying the vacancies and the approach and attitude of the 3rd respondent in rejecting the case of the petitioner for conversion as Fair Price Shop Dealer is arbitrary, illegal and not in tune with the policy decision envisaged and the underlying principle in converting Hawkers as Fair Price Shop Dealers.

4. The learned Government Pleader for Civil Supplies had placed before this Court G.O.Ms.No.53 Consumer Affairs, Food and Civil Supplies (C.S.I.) Department, dt.6-10-2003.

5. In the light of the facts and circumstances, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner as and when vacancies arise in accordance with the guidelines specified in G.O.Ms.No.53, dt.6-10-2003, specified supra. The Writ Petition is disposed of accordingly. No order as to costs.

Justice P.S.Narayana

17th September, 2007

smr